

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

TERRY CUTWRIGHT and JOHN WILSON
On behalf of themselves and others similarly situated,

Plaintiffs,

v.

Civ. Action No. 2:16-cv-06346
Honorable John T. Copenhaver

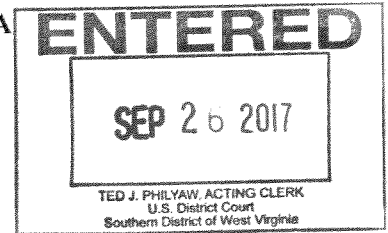
MAYOR DANNY JONES, individually,
And in his official capacity, THE CITY
OF CHARLESTON, and its division
THE CHARLESTON POLICE DEPARTMENT,

Defendants.

AGREED ORDER OF DISMISSAL

On August 25, 2017, came the Plaintiffs by counsel, Samuel B. Petsonk, and Bren J. Pomponio of Mountain State Justice, Inc., and the Defendants, by counsel, Karen Tracy McElhinny of Shuman, McCuskey & Slicer, PLLC, and Paul D. Ellis, City Attorney of Charleston, and advised the Court that they have reached a negotiated settlement of the above-styled matter. The Parties advised the Court of the following:

On May 26, 2017, the Parties participated in a mediation to resolve this matter and successfully entered into a mediation agreement thereafter, Ex. 1 (Mediation Agreement), which contains the terms and conditions of settlement of the litigation. Generally, the terms of the settlement are that the City has paid Twenty Thousand Dollars (\$20,000.00) to resolve the claims of individuals who resided at Tent City and who are claiming loss or destruction of personal property arising from the closure of Tent City ("Claimants"), inclusive of attorney fees and costs. Each Claimant will receive a pro rata share of the settlement, in an amount not less than \$1200, in vouchers to designated local businesses or in a combination of vouchers and a check for



attorney fees and costs to the Claimant's designated attorney. The City also agreed to certain non-monetary settlement terms, which are described more fully in Exhibit 1.

In consideration for the settlement, each Claimant, with the exception of the minor Claimant, will provide the City with a release of all claims and will voluntarily dismiss this action, with prejudice. The parties represented to this Court that the City has tendered the funds and has released the vouchers to the Claimants.

After May 26, 2017, Counsel for the Plaintiffs, with assistance from homeless services providers and the City of Charleston attempted to locate individuals with claims that they lost personal property at the time of the disbursement of "Tent City." Plaintiffs' counsel's efforts to locate individuals with claims are described in the attached Declaration of Samuel B. Petsonk, that will be filed separately. The complete list of claimants, including one additional claimant who was located after the Mediation Agreement, Ex 1, was signed, is attached hereto as Ex. 2.

This cause of action was never certified as a class action, and the Parties agree that the mediation and settlement agreements in this matter are entered on behalf of individuals listed on Exhibit 2 and that they are not class action mediation or settlement agreements. Mountain State Justice has identified two additional claimants, and the City of Charleston has agreed to pay those two individuals in the event that they present a claim to the City Attorney's Office, in addition to the settlement outlined herein, amounts in vouchers similar to those paid to the claimants in this settlement, reduced by any amounts those claimants owe the City in fines or restitution, subject to verification by Prestera that they were present and lost personal property at the time of closure of Tent City.

The Parties represented to the Court that all matters in controversy between and among these parties have been fully settled and compromised, and the parties jointly moved the Court to dismiss this matter with prejudice.

It appearing to the Court proper to do so, it is ORDERED that the above-styled action is hereby, DISMISSED, with prejudice as to all parties, with the exception of the minor Plaintiff listed on Exhibit 2.

The Clerk is requested to transmit this Order to all counsel of record.

ENTERED: This 26th day of September, 2017.


Honorable John T. Copenhaver
United States District Judge

Prepared by:

/s/ Karen Tracy McElhinny
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